

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

CASE No. 4:19-CR-137-O

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	FILED <u>IN CAMERA</u> , <u>EX PARTE</u> ,
	:	AND UNDER SEAL WITH THE
v.	:	CLASSIFIED INFORMATION
	:	SECURITY OFFICER OR
MICHAEL KYLE SEWELL	:	DESIGNEE
	:	
Defendant	:	

PROTECTIVE ORDER

This matter is before the Court on the government’s Ex Parte, In Camera, Under Seal Motion for a Protective Order Pursuant to Section 4 of the Classified Information Procedures Act and Rule 16(d)(1) of the Federal Rules of Criminal Procedure (“government’s Motion for a Protective Order”). By its motion, the government requested that the Court, pursuant to CIPA § 4, Fed. R. Crim. P. 16(d)(1) and the applicable law: (1) conduct an in camera and ex parte review of the government’s submissions; (2) find that the classified information the government seeks to delete is not discoverable under the traditional rules of discovery, or is not “relevant and helpful” to the defense, and that its disclosure would reasonably be expected to cause serious damage to National Security; and (3) sign the proposed order, ordering that the entire text of the government’s motion, all the accompanying exhibits and any classified order issued by the Court shall not be disclosed to the defense or the public and shall be sealed and preserved in the records of the Court to be made available to the appellate court in the event of an appeal.

The Court is aware of and has reviewed the applicable law under Federal Rule of

Criminal Procedure 16, Brady v. Maryland, 373 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972), and their progeny. Having considered that law, the government's motion, and the declaration and exhibits filed therewith, the Court **GRANTS** the government's Motion for a Protective Order in its entirety.

The Court finds that the government's Motion for a Protective Order was properly filed ex parte, in camera, for this Court's review, pursuant to CIPA § 4 and Fed. R. Crim. P. 16(d)(1). The Court has conducted an ex parte, in camera review of the government's classified motion, memorandum of law, classified declaration of a United States government official, and certain documents attached to the government's Motion.

On the basis of the Court's independent review of the information and the arguments set forth in the government's Motion for a Protective Order, the Court finds that the classified information referenced in the government's motion implicates the government's national security and classified information privilege because the information is properly classified, extremely sensitive, and its disclosure could cause serious damage to the national security of the United States.

The Court further finds that none of the information the government seeks to delete is exculpatory within the meaning of Brady v. Maryland and its progeny, and need not be produced to the defense in any format.


Accordingly, it is:

ORDERED that the government's Motion for a Protective Order prohibiting the discovery of certain classified information is hereby granted; and it is further

ORDERED that the government's submission is hereby sealed, and shall remain preserved in the custody of the Classified Information Security Officer, in accordance

with established court security procedures, until further order of this Court:

SO OREDERED this 12th day of September, 2019.



HON. REED O'CONNOR
UNITED STATES DISTRICT JUDGE